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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,156	08/04/2003	Jean Pierre Giraud	63056.TBA	6332
45599	7590	07/27/2005	EXAMINER	
GREENBERG TRAURIG LLP MET LIFE BUILDING 200 PARK AVENUE; 14TH FLOOR NEW YORK, NY 10166				SMALLEY, JAMES N
ART UNIT		PAPER NUMBER		
3727				

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/634,156	GIRAUD, JEAN PIERRE
	Examiner	Art Unit
	James N. Smalley	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 May 2005.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.  
 4a) Of the above claim(s) 2 and 3 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,4 and 5 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohlfs US 6,571,981 in view of Connors, JR. et al. US 2003/0066839 and in view of Proshan US 5,363,983.

Rohlfs '981 teaches a hinged beverage cup lid comprising a container (10), integral hinge (18), cover (14) and drinking spout (20).

Rohlfs '981 does not teach the spout having a passive closure system to prevent beverage flow through the spout.

Connors '839 teaches a beverage spout with holes formed to prevent leakage by the use of liquid surface tension formed within the drinking openings, and allowing a beverage to flow upon suction applied by a user.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spout of Rohlfs '981, providing the spout taught by Connors '839, to prevent beverage from leaking from the spout.

Furthermore, Rohlfs '981, as modified, does not teach the lid being configured to stack within an adjacent lid when the associated cup is stacked within an adjacent cup.

Proshan '983 teaches it is known to configure cup lids to stack with adjacent lids, as shown in figure 6, notably by the tapering of the spout.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spout of Rohlfs '981, providing the taper taught by Proshan '983, motivated by the benefit of configuring the lid to fit within an adjacent lid and reduce the space consumed by the stacked cups, in order to allow more cups to fit within a given volume.

3. Claims 1 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Connors, JR. et al. US 2003/0066839 in view of Rohlfs US 6,571,981 and in view of Proshan US 5,363,983.

Connors '839 teaches a beverage spout (20) with holes (34) formed to prevent leakage by the use of liquid surface tension formed within the drinking openings, and allowing a beverage to flow upon suction applied by a user.

Connors '839 does not teach a lid hinged to the sidewall of the container.

Rohlfs '981 teaches a drinking assembly comprising a lid (14) connected to a container (10) sidewall by an integral hinge (18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the beverage cup lid of Connors '839, connecting it to a beverage container by an integral hinge, as taught by Rohlfs '981, motivated by the benefit of preventing the lid from being displaced from the container.

Furthermore, Connors '839, as modified, does not teach the lid being configured to stack within an adjacent lid when the associated cup is stacked within an adjacent cup.

Proshan '983 teaches it is known to configure cup lids to stack with adjacent lids, as shown in figure 6, notably by the tapering of the spout.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the spout of Connors '839, providing the taper taught by Proshan '983, motivated by the benefit of configuring the lid to fit within an adjacent lid and reduce the space consumed by the stacked cups, in order to allow more cups to fit within a given volume.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3727

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on M-Th 9-6:30, Alternate Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns



NATHAN J. NEWHOUSE  
PRIMARY EXAMINER